

AMENDED IN SENATE MARCH 25, 2010

AMENDED IN ASSEMBLY JUNE 2, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 950

Introduced by Assembly Member Hernandez

February 26, 2009

An act to amend Sections 1250, ~~1250.1, 1746, 128700, and 128755~~ of, and to add Sections 1749.1 and 1749.3 to, ~~1265.7, 1267.13, and 1267.15~~ of the Health and Safety Code, relating to hospice care.

LEGISLATIVE COUNSEL'S DIGEST

AB 950, as amended, Hernandez. Hospice providers: licensed hospice facilities.

Under existing law, the State Department of Public Health licenses and regulates health-care facilities, including ~~adult residential facilities, residential care facilities, and residential care facilities for the elderly skilled nursing facilities, intermediate care facilities, and congregate living facilities~~. Under existing law, the department also licenses and regulates hospices and the provision of hospice services. Violation of these provisions is a crime.

This bill would create a new *health facility licensing* category for, and require the department to license and regulate, ~~hospice facilities congregate living health facility-hospices~~, as defined. *It would impose various requirements on these facilities.*

~~Under existing law, any interested person may petition a state agency requesting the adoption of a regulation. Existing law requires the state agency to either deny the petition, as prescribed, or schedule the matter for a public hearing, as prescribed.~~

~~This bill would permit the department to avoid drafting regulations required to implement the bill if the California Hospice and Palliative Care Association drafts the regulations, as specified, and submits the draft regulations as a petition for regulation for the department's review and approval.~~

Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Hospice is a special type of health care service designed to
- 4 provide palliative care and to alleviate the physical, emotional,
- 5 social, and spiritual discomforts of an individual who is
- 6 experiencing the last phases of life due to terminal illness.
- 7 (b) Hospice services provide supportive care to the primary
- 8 caregiver and family of the patient.
- 9 (c) Hospice services are provided primarily in the home, but
- 10 can also be provided in residential care or in health facility inpatient
- 11 settings.
- 12 (d) Persons who do not have family or caregivers who are able
- 13 to provide care in the home should be able to have care provided
- 14 in a home-like environment, rather than in an institutional setting,
- 15 if that is their preference.
- 16 (e) Permitting the establishment of licensed hospice facilities
- 17 provides additional care and treatment options for persons who
- 18 are at the end of life.

1 (f) The establishment of licensed hospice facilities is permitted
2 under federal law and by many other states.

3 (g) Permitting the establishment of licensed hospice facilities
4 is consistent with federal legal affirmations of the right of an
5 individual to refuse life-sustaining treatment and that each person's
6 preferences about his or her end-of-life care should be considered.

7 (h) Permitting the establishment of licensed hospice facilities
8 is also consistent with the decision of the United States Supreme
9 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581, which
10 held that persons with disabilities have the right to live in the most
11 integrated setting possible with appropriate access to care and
12 choice of community-based services and placement options.

13 (i) It is the intent of the Legislature to permit the licensure of
14 hospice inpatient facilities in order to improve access to care, to
15 provide additional care options, and to provide for a home-like
16 environment within which to provide care and treatment for persons
17 who are experiencing the last phases of life.

18 ~~SEC. 2. Section 1250 of the Health and Safety Code is amended~~
19 ~~to read:~~

20 ~~1250. As used in this chapter, "health facility" means any~~
21 ~~facility, place, or building that is organized, maintained, and~~
22 ~~operated for the diagnosis, care, prevention, and treatment of~~
23 ~~human illness, physical or mental, including convalescence and~~
24 ~~rehabilitation and including care during and after pregnancy, or~~
25 ~~for any one or more of these purposes, for one or more persons,~~
26 ~~to which the persons are admitted for a 24-hour stay or longer, and~~
27 ~~includes the following types:~~

28 ~~(a) "General acute care hospital" means a health facility having~~
29 ~~a duly constituted governing body with overall administrative and~~
30 ~~professional responsibility and an organized medical staff that~~
31 ~~provides 24-hour inpatient care, including the following basic~~
32 ~~services: medical, nursing, surgical, anesthesia, laboratory,~~
33 ~~radiology, pharmacy, and dietary services. A general acute care~~
34 ~~hospital may include more than one physical plant maintained and~~
35 ~~operated on separate premises as provided in Section 1250.8. A~~
36 ~~general acute care hospital that exclusively provides acute medical~~
37 ~~rehabilitation center services, including at least physical therapy,~~
38 ~~occupational therapy, and speech therapy, may provide for the~~
39 ~~required surgical and anesthesia services through a contract with~~
40 ~~another acute care hospital. In addition, a general acute care~~

1 hospital that, on July 1, 1983, provided required surgical and
2 anesthesia services through a contract or agreement with another
3 acute care hospital may continue to provide these surgical and
4 anesthesia services through a contract or agreement with an acute
5 care hospital. The general acute care hospital operated by the State
6 Department of Developmental Services at Agnews Developmental
7 Center may, until June 30, 2007, provide surgery and anesthesia
8 services through a contract or agreement with another acute care
9 hospital. Notwithstanding the requirements of this subdivision, a
10 general acute care hospital operated by the Department of
11 Corrections and Rehabilitation or the Department of Veterans
12 Affairs may provide surgery and anesthesia services during normal
13 weekday working hours, and not provide these services during
14 other hours of the weekday or on weekends or holidays, if the
15 general acute care hospital otherwise meets the requirements of
16 this section.

17 A “general acute care hospital” includes a “rural general acute
18 care hospital.” However, a “rural general acute care hospital” shall
19 not be required by the department to provide surgery and anesthesia
20 services. A “rural general acute care hospital” shall meet either of
21 the following conditions:

22 (1) The hospital meets criteria for designation within peer group
23 six or eight, as defined in the report entitled Hospital Peer Grouping
24 for Efficiency Comparison, dated December 20, 1982.

25 (2) The hospital meets the criteria for designation within peer
26 group five or seven, as defined in the report entitled Hospital Peer
27 Grouping for Efficiency Comparison, dated December 20, 1982,
28 and has no more than 76 acute care beds and is located in a census
29 dwelling place of 15,000 or less population according to the 1980
30 federal census.

31 (b) “Acute psychiatric hospital” means a health facility having
32 a duly constituted governing body with overall administrative and
33 professional responsibility and an organized medical staff who
34 provides 24-hour inpatient care for mentally disordered,
35 incompetent, or other patients referred to in Division 5
36 (commencing with Section 5000) or Division 6 (commencing with
37 Section 6000) of the Welfare and Institutions Code, including the
38 following basic services: medical, nursing, rehabilitative,
39 pharmacy, and dietary services.

1 (e) “Skilled nursing facility” means a health facility that provides
2 skilled nursing care and supportive care to patients whose primary
3 need is for availability of skilled nursing care on an extended basis.

4 (d) “Intermediate care facility” means a health facility that
5 provides inpatient care to ambulatory or nonambulatory patients
6 who have recurring need for skilled nursing supervision and need
7 supportive care, but who do not require availability of continuous
8 skilled nursing care.

9 (e) “Intermediate care facility/developmentally disabled
10 habilitative” means a facility with a capacity of 4 to 15 beds that
11 provides 24-hour personal care, habilitation, developmental, and
12 supportive health services to 15 or fewer developmentally disabled
13 persons who have intermittent recurring needs for nursing services;
14 but have been certified by a physician and surgeon as not requiring
15 availability of continuous skilled nursing care.

16 (f) “Special hospital” means a health facility having a duly
17 constituted governing body with overall administrative and
18 professional responsibility and an organized medical or dental staff
19 who provides inpatient or outpatient care in dentistry or maternity.

20 (g) “Intermediate care facility/developmentally disabled” means
21 a facility that provides 24-hour personal care, habilitation,
22 developmental, and supportive health services to developmentally
23 disabled clients whose primary need is for developmental services
24 and who have a recurring but intermittent need for skilled nursing
25 services.

26 (h) “Intermediate care facility/developmentally
27 disabled nursing” means a facility with a capacity of 4 to 15 beds
28 that provides 24-hour personal care, developmental services, and
29 nursing supervision for developmentally disabled persons who
30 have intermittent recurring needs for skilled nursing care but have
31 been certified by a physician and surgeon as not requiring
32 continuous skilled nursing care. The facility shall serve medically
33 fragile persons who have developmental disabilities or demonstrate
34 significant developmental delay that may lead to a developmental
35 disability if not treated.

36 (i) (1) “Congregate living health facility” means a residential
37 home with a capacity, except as provided in paragraph (4), of no
38 more than 12 beds, that provides inpatient care, including the
39 following basic services: medical supervision, 24-hour skilled
40 nursing and supportive care, pharmacy, dietary, social, recreational,

1 and at least one type of service specified in paragraph (2). The
2 primary need of congregate living health facility residents shall
3 be for availability of skilled nursing care on a recurring,
4 intermittent, extended, or continuous basis. This care is generally
5 less intense than that provided in general acute care hospitals but
6 more intense than that provided in skilled nursing facilities.

7 (2) Congregate living health facilities shall provide one of the
8 following services:

9 (A) Services for persons who are mentally alert, physically
10 disabled persons, who may be ventilator dependent.

11 (B) Services for persons who have a diagnosis of terminal
12 illness, a diagnosis of a life-threatening illness, or both. Terminal
13 illness means the individual has a life expectancy of six months
14 or less as stated in writing by his or her attending physician and
15 surgeon. A "life-threatening illness" means the individual has an
16 illness that can lead to a possibility of a termination of life within
17 five years or less as stated in writing by his or her attending
18 physician and surgeon.

19 (C) Services for persons who are catastrophically and severely
20 disabled. A catastrophically and severely disabled person means
21 a person whose origin of disability was acquired through trauma
22 or nondegenerative neurologic illness, for whom it has been
23 determined that active rehabilitation would be beneficial and to
24 whom these services are being provided. Services offered by a
25 congregate living health facility to a catastrophically disabled
26 person shall include, but not be limited to, speech, physical, and
27 occupational therapy.

28 (3) A congregate living health facility license shall specify which
29 of the types of persons described in paragraph (2) to whom a
30 facility is licensed to provide services.

31 (4) (A) A facility operated by a city and county for the purposes
32 of delivering services under this section may have a capacity of
33 59 beds.

34 (B) A congregate living health facility not operated by a city
35 and county servicing persons who are terminally ill, persons who
36 have been diagnosed with a life-threatening illness, or both, that
37 is located in a county with a population of 500,000 or more persons
38 may have not more than 25 beds for the purpose of serving
39 terminally ill persons.

1 ~~(C) A congregate living health facility not operated by a city~~
2 ~~and county serving persons who are catastrophically and severely~~
3 ~~disabled, as defined in subparagraph (C) of paragraph (2) that is~~
4 ~~located in a county of 500,000 or more persons may have not more~~
5 ~~than 12 beds for the purpose of serving catastrophically and~~
6 ~~severely disabled persons.~~

7 ~~(5) A congregate living health facility shall have a~~
8 ~~noninstitutional, homelike environment.~~

9 ~~(j) (1) "Correctional treatment center" means a health facility~~
10 ~~operated by the Department of Corrections and Rehabilitation, or~~
11 ~~a county, city, or city and county law enforcement agency that, as~~
12 ~~determined by the state department, provides inpatient health~~
13 ~~services to that portion of the inmate population who do not require~~
14 ~~a general acute care level of basic services. This definition shall~~
15 ~~not apply to those areas of a law enforcement facility that houses~~
16 ~~inmates or wards who may be receiving outpatient services and~~
17 ~~are housed separately for reasons of improved access to health~~
18 ~~care, security, and protection. The health services provided by a~~
19 ~~correctional treatment center shall include, but are not limited to,~~
20 ~~all of the following basic services: physician and surgeon,~~
21 ~~psychiatrist, psychologist, nursing, pharmacy, and dietary. A~~
22 ~~correctional treatment center may provide the following services:~~
23 ~~laboratory, radiology, perinatal, and any other services approved~~
24 ~~by the state department.~~

25 ~~(2) Outpatient surgical care with anesthesia may be provided,~~
26 ~~if the correctional treatment center meets the same requirements~~
27 ~~as a surgical clinic licensed pursuant to Section 1204, with the~~
28 ~~exception of the requirement that patients remain less than 24~~
29 ~~hours.~~

30 ~~(3) Correctional treatment centers shall maintain written service~~
31 ~~agreements with general acute care hospitals to provide for those~~
32 ~~inmate physical health needs that cannot be met by the correctional~~
33 ~~treatment center.~~

34 ~~(4) Physician and surgeon services shall be readily available in~~
35 ~~a correctional treatment center on a 24-hour basis.~~

36 ~~(5) It is not the intent of the Legislature to have a correctional~~
37 ~~treatment center supplant the general acute care hospitals at the~~
38 ~~California Medical Facility, the California Men's Colony, and the~~
39 ~~California Institution for Men. This subdivision shall not be~~
40 ~~construed to prohibit the Department of Corrections and~~

1 ~~Rehabilitation from obtaining a correctional treatment center~~
2 ~~license at these sites.~~

3 ~~(k) "Nursing facility" means a health facility licensed pursuant~~
4 ~~to this chapter that is certified to participate as a provider of care~~
5 ~~either as a skilled nursing facility in the federal Medicare Program~~
6 ~~under Title XVIII of the federal Social Security Act or as a nursing~~
7 ~~facility in the federal Medicaid Program under Title XIX of the~~
8 ~~federal Social Security Act, or as both.~~

9 ~~(l) Regulations defining a correctional treatment center described~~
10 ~~in subdivision (j) that is operated by a county, city, or city and~~
11 ~~county, the Department of Corrections and Rehabilitation, shall~~
12 ~~not become effective prior to, or if effective, shall be inoperative~~
13 ~~until January 1, 1996, and until that time these correctional facilities~~
14 ~~are exempt from any licensing requirements.~~

15 ~~(m) "Hospice facility" means a facility licensed pursuant to~~
16 ~~Sections 1749.1 and 1749.3.~~

17 ~~SEC. 3. Section 1250.1 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 ~~1250.1. (a) The state department shall adopt regulations that~~
20 ~~define all of the following bed classifications for health facilities:~~

21 ~~(1) General acute care.~~

22 ~~(2) Skilled nursing.~~

23 ~~(3) Intermediate care-developmental disabilities.~~

24 ~~(4) Intermediate care—other.~~

25 ~~(5) Acute psychiatric.~~

26 ~~(6) Specialized care, with respect to special hospitals only.~~

27 ~~(7) Chemical dependency recovery.~~

28 ~~(8) Intermediate care facility/developmentally disabled~~
29 ~~habilitative.~~

30 ~~(9) Intermediate care facility/developmentally disabled nursing.~~

31 ~~(10) Congregate living health facility.~~

32 ~~(11) Pediatric day health and respite care facility, as defined~~
33 ~~in Section 1760.2.~~

34 ~~(12) Correctional treatment center. For correctional treatment~~
35 ~~centers that provide psychiatric and psychological services~~
36 ~~provided by county mental health agencies in local detention~~
37 ~~facilities, the State Department of Mental Health shall adopt~~
38 ~~regulations specifying acute and nonacute levels of 24-hour care.~~
39 ~~Licensed inpatient beds in a correctional treatment center shall be~~
40 ~~used only for the purpose of providing health services.~~

1 ~~(13) Hospice facility.~~

2 ~~(b) Except as provided in Section 1253.1, beds classified as~~
3 ~~intermediate care beds, on September 27, 1978, shall be reclassified~~
4 ~~by the state department as intermediate care—other. This~~
5 ~~reclassification shall not constitute a “project” within the meaning~~
6 ~~of Section 127170 and shall not be subject to any requirement for~~
7 ~~a certificate of need under Chapter 1 (commencing with Section~~
8 ~~127125) of Part 2 of Division 107, and regulations of the state~~
9 ~~department governing intermediate care prior to the effective date~~
10 ~~shall continue to be applicable to the intermediate care—other~~
11 ~~classification unless and until amended or repealed by the state~~
12 ~~department.~~

13 ~~SEC. 4. Section 1746 of the Health and Safety Code is amended~~
14 ~~to read:~~

15 ~~1746. For purposes of this chapter, the following definitions~~
16 ~~apply:~~

17 ~~(a) “Bereavement services” means those services available to~~
18 ~~the surviving family members for a period of at least one year after~~
19 ~~the death of the patient, including an assessment of the needs of~~
20 ~~the bereaved family and the development of a care plan that meets~~
21 ~~these needs, both prior to and following the death of the patient.~~

22 ~~(b) “Home health aide” has the same meaning as set forth in~~
23 ~~subdivision (c) of Section 1727.~~

24 ~~(c) “Home health aide services” means those services described~~
25 ~~in subdivision (d) of Section 1727 that provide for the personal~~
26 ~~care of the terminally ill patient and the performance of related~~
27 ~~tasks in the patient’s home in accordance with the plan of care in~~
28 ~~order to increase the level of comfort and to maintain personal~~
29 ~~hygiene and a safe, healthy environment for the patient.~~

30 ~~(d) “Hospice” means a specialized form of interdisciplinary~~
31 ~~health care that is designed to provide palliative care, alleviate the~~
32 ~~physical, emotional, social, and spiritual discomforts of an~~
33 ~~individual who is experiencing the last phases of life due to the~~
34 ~~existence of a terminal disease, and provide supportive care to the~~
35 ~~primary caregiver and the family of the hospice patient, and that~~
36 ~~meets all of the following criteria:~~

37 ~~(1) Considers the patient and the patient’s family, in addition~~
38 ~~to the patient, as the unit of care.~~

~~(2) Utilizes an interdisciplinary team to assess the physical, medical, psychological, social, and spiritual needs of the patient and the patient's family.~~

~~(3) Requires the interdisciplinary team to develop an overall plan of care and to provide coordinated care that emphasizes supportive services, including, but not limited to, home care, pain control, and limited inpatient services. Limited inpatient services are intended to ensure both continuity of care and appropriateness of services for those patients who cannot be managed at home because of acute complications or the temporary absence of a capable primary caregiver.~~

~~(4) Provides for the palliative medical treatment of pain and other symptoms associated with a terminal disease, but does not provide for efforts to cure the disease.~~

~~(5) Provides for bereavement services following death to assist the family in coping with social and emotional needs associated with the death of the patient.~~

~~(6) Actively utilizes volunteers in the delivery of hospice services.~~

~~(7) To the extent appropriate, based on the medical needs of the patient, provides services in the patient's home or primary place of residence.~~

~~(e) "Hospice facility" means a health facility that has been licensed pursuant to Sections 1749.1 and 1749.3 by the department for the provision of hospice care, including routine care, continuous care, inpatient respite care, and general inpatient care. Hospice facility licensure shall be granted only to licensed and certified hospices licensed in California.~~

~~(f) "Inpatient care arrangements" means arranging for those short inpatient stays that may become necessary to manage acute symptoms or because of the temporary absence, or need for respite, of a capable primary caregiver. The hospice shall arrange for these stays, ensuring both continuity of care and the appropriateness of services.~~

~~(g) "Interdisciplinary team" means the hospice care team that includes, but is not limited to, the patient and patient's family, a physician and surgeon, a registered nurse, a social worker, a volunteer, and a spiritual caregiver. The team shall be coordinated by a registered nurse and shall be under medical direction. The~~

1 team shall meet regularly to develop and maintain an appropriate
2 plan of care.

3 (h) ~~“Medical direction” means those services provided by a~~
4 ~~licensed physician and surgeon who is charged with the~~
5 ~~responsibility of acting as a consultant to the interdisciplinary~~
6 ~~team, a consultant to the patient’s attending physician and surgeon,~~
7 ~~as requested, with regard to pain and symptom management, and~~
8 ~~a liaison with physicians and surgeons in the community.~~

9 (i) ~~“Multiple location” means a location or site from which a~~
10 ~~hospice makes available basic hospice services within the service~~
11 ~~area of the parent agency. A multiple location shares~~
12 ~~administration, supervision, policies and procedures, and services~~
13 ~~with the parent agency in a manner that renders it unnecessary for~~
14 ~~the site to independently meet the licensing requirements.~~

15 (j) ~~“Palliative” refers to medical treatment, interdisciplinary~~
16 ~~care, or consultation provided to the patient or family members,~~
17 ~~or both, that has as its primary purpose preventing or relieving~~
18 ~~suffering and enhancing the quality of life, rather than curing the~~
19 ~~disease, as described in subdivision (b) of Section 1339.31, of a~~
20 ~~patient who has an end-stage medical condition.~~

21 (k) ~~“Parent agency” means the part of the hospice that is licensed~~
22 ~~pursuant to this chapter and that develops and maintains~~
23 ~~administrative controls of multiple locations. All services provided~~
24 ~~by the multiple locations and parent agency are the responsibility~~
25 ~~of the parent agency.~~

26 (l) ~~“Plan of care” means a written plan developed by the~~
27 ~~attending physician and surgeon, the medical director or physician~~
28 ~~and surgeon designee, and the interdisciplinary team that addresses~~
29 ~~the needs of a patient and family admitted to the hospice program.~~
30 ~~The hospice shall retain overall responsibility for the development~~
31 ~~and maintenance of the plan of care and quality of services~~
32 ~~delivered.~~

33 (m) ~~“Preliminary services” means those services authorized~~
34 ~~pursuant to subdivision (d) of Section 1749.~~

35 (n) ~~“Skilled nursing services” means nursing services provided~~
36 ~~by or under the supervision of a registered nurse under a plan of~~
37 ~~care developed by the interdisciplinary team and the patient’s~~
38 ~~physician and surgeon to a patient and his or her family that pertain~~
39 ~~to the palliative, supportive services required by patients with a~~
40 ~~terminal illness. Skilled nursing services include, but are not limited~~

1 to, patient assessment, evaluation and case management of the
2 medical nursing needs of the patient, the performance of prescribed
3 medical treatment for pain and symptom control, the provision of
4 emotional support to both the patient and his or her family, and
5 the instruction of caregivers in providing personal care to the
6 patient. Skilled nursing services shall provide for the continuity
7 of services for the patient and his or her family. Skilled nursing
8 services shall be available on a 24-hour on-call basis.

9 (e) “Social services/counseling services” means those counseling
10 and spiritual care services that assist the patient and his or her
11 family to minimize stresses and problems that arise from social,
12 economic, psychological, or spiritual needs by utilizing appropriate
13 community resources, and maximize positive aspects and
14 opportunities for growth.

15 (p) “Terminal disease” or “terminal illness” means a medical
16 condition resulting in a prognosis of life of one year or less, if the
17 disease follows its natural course.

18 (q) “Volunteer services” means those services provided by
19 trained hospice volunteers who have agreed to provide service
20 under the direction of a hospice staff member who has been
21 designated by the hospice to provide direction to hospice
22 volunteers. Hospice volunteers may be used to provide support
23 and companionship to the patient and his or her family during the
24 remaining days of the patient’s life and to the surviving family
25 following the patient’s death.

26 SEC. 5. Section 1749.1 is added to the Health and Safety Code,
27 to read:

28 1749.1. (a) (1) Only a hospice licensed and certified in
29 California may apply for a hospice facility license.

30 (2) On or after the effective date of regulations to implement
31 this section, a hospice provider that seeks to provide short-term
32 inpatient respite or inpatient care directly in the hospice provider’s
33 own facility shall submit an application for licensure as a hospice
34 facility.

35 (3) A hospice provider who provides short-term inpatient respite
36 or inpatient care directly in the hospice provider’s own facility
37 prior to the effective date of regulations to implement this section
38 may also continue to be licensed as a specialty hospital, skilled
39 nursing facility, or congregate living health facility.

1 ~~(4) Each application for a new or renewed hospice facility~~
2 ~~license under this chapter shall be accompanied by an annual~~
3 ~~Licensing and Certification Program fee set in accordance with~~
4 ~~Section 1266.~~

5 ~~(5) A hospice facility shall be separately licensed, irrespective~~
6 ~~of the location of the facility.~~

7 ~~(b) Hospice facility licensees shall be responsible for obtaining~~
8 ~~criminal background checks for employees, volunteers, and~~
9 ~~contractors in accordance with federal Medicare conditions of~~
10 ~~participation (42 C.F.R. 418 et seq.) and as may be required in~~
11 ~~accordance with state law. The hospice facility licensee shall pay~~
12 ~~the costs of obtaining a criminal background check.~~

13 ~~(c) Building standards adopted pursuant to this section relating~~
14 ~~to fire and panic safety, and other regulations adopted pursuant to~~
15 ~~this section, shall apply uniformly throughout the state. No city,~~
16 ~~county, city and county, including a charter city or charter county,~~
17 ~~or fire protection district shall adopt or enforce any ordinance or~~
18 ~~local rule or regulation relating to fire and panic safety in buildings~~
19 ~~or structures subject to this section that is inconsistent with the~~
20 ~~rules and regulations adopted pursuant to this section.~~

21 ~~(d) The hospice facility shall meet the fire protection standards~~
22 ~~set forth in federal Medicare conditions of participation (42 C.F.R.~~
23 ~~418 et seq.). A hospice facility shall meet the same building~~
24 ~~standards as a congregate living health facility as described in~~
25 ~~subparagraph (B) of paragraph (2) of subdivision (i) of Section~~
26 ~~1250.~~

27 ~~(e) A hospice facility shall operate as a freestanding health~~
28 ~~facility, but may also be located adjacent to, physically connected~~
29 ~~to, or on the building grounds of, another health facility or~~
30 ~~residential care facility. A hospice facility shall not be required to~~
31 ~~submit construction plans to the Office of Statewide Health~~
32 ~~Planning and Development for new construction or renovation.~~
33 ~~As part of the application for licensure, the prospective licensee~~
34 ~~shall submit evidence of compliance with local building codes. In~~
35 ~~addition, the physical environment of the facility shall be adequate~~
36 ~~to provide the level of care and service required by the residents~~
37 ~~of the facility as determined by the department.~~

38 ~~SEC. 6. Section 1749.3 is added to the Health and Safety Code,~~
39 ~~to read:~~

1 ~~1749.3. (a) In order for a hospice program to be licensed as a~~
2 ~~hospice facility, it shall provide, or make provision for, all of the~~
3 ~~following services and requirements:~~

- 4 ~~(1) Medical direction and adequate staff.~~
- 5 ~~(2) Skilled nursing services.~~
- 6 ~~(3) Palliative care.~~
- 7 ~~(4) Social services and counseling services.~~
- 8 ~~(5) Bereavement services.~~
- 9 ~~(6) Volunteer services.~~
- 10 ~~(7) Dietary services.~~
- 11 ~~(8) Pharmaceutical services.~~
- 12 ~~(9) Physical therapy, occupational therapy, and speech-language~~
13 ~~therapy.~~
- 14 ~~(10) Patient rights.~~
- 15 ~~(11) Disaster preparedness.~~
- 16 ~~(12) An adequate, safe, and sanitary physical environment.~~
- 17 ~~(13) Housekeeping services.~~
- 18 ~~(14) Patient medical records.~~
- 19 ~~(15) Other administrative requirements.~~

20 ~~(b) The department shall adopt regulations that establish~~
21 ~~standards for the provision of the services in subdivision (a). These~~
22 ~~regulations shall include, but are not limited to, all of the following:~~

- 23 ~~(1) Minimum staffing standards that require at least one licensed~~
24 ~~nurse to be on duty 24 hours per day and a maximum of six patients~~
25 ~~at any given time per direct care staffperson.~~
- 26 ~~(2) Patients rights provisions that provide each patient with all~~
27 ~~of the following:~~
 - 28 ~~(A) Full information regarding his or her health status and~~
29 ~~options for end-of-life care.~~
 - 30 ~~(B) Care that reflects individual preferences regarding~~
31 ~~end-of-life care, including the right to refuse any treatment or~~
32 ~~procedure.~~
 - 33 ~~(C) Treatment with consideration, respect, and full recognition~~
34 ~~of dignity and individuality, including privacy in treatment and~~
35 ~~care of personal needs.~~
 - 36 ~~(D) Entitlement to visitors of his or her choosing, at any time~~
37 ~~the patient chooses, and ensured privacy for those visits.~~
- 38 ~~(3) Disaster preparedness plans for both internal and external~~
39 ~~disasters that protect hospice patients, employees, and visitors;~~

1 and reflect coordination with local agencies that are responsible
2 for disaster preparedness and emergency response.

3 (4) ~~Additional qualifications and requirements for licensure~~
4 ~~above the requirements of this section and Section 1749.1.~~

5 (e) ~~The hospice facility shall provide a home-like environment~~
6 ~~that is comfortable and accommodating to both the patient and the~~
7 ~~patient's visitors.~~

8 (d) ~~The hospice facility shall continue to provide services to~~
9 ~~family and friends after the patient's stay in the hospice facility in~~
10 ~~accordance with the patient's plan of care. These services may be~~
11 ~~provided by the hospice program that operates the hospice facility.~~

12 (e) ~~The hospice facility shall demonstrate the ability to meet~~
13 ~~licensing requirements and shall be fully responsible for meeting~~
14 ~~all licensing requirements, regardless of whether those requirements~~
15 ~~are met through direct provision by the facility or under contract~~
16 ~~with another entity. The hospice facility's reliance on contractors~~
17 ~~to meet the licensing requirements does not exempt the hospice~~
18 ~~facility or in any way mitigate the hospice facility's responsibilities.~~

19 SEC. 7. ~~Section 128700 of the Health and Safety Code is~~
20 ~~amended to read:~~

21 128700. ~~As used in this chapter, the following definitions apply:~~

22 (a) ~~"Ambulatory surgery procedures" means those procedures~~
23 ~~performed on an outpatient basis in the general operating rooms,~~
24 ~~ambulatory surgery rooms, endoscopy units, or cardiac~~
25 ~~catheterization laboratories of a hospital or a freestanding~~
26 ~~ambulatory surgery clinic.~~

27 (b) ~~"Commission" means the California Health Policy and Data~~
28 ~~Advisory Commission.~~

29 (c) ~~"Emergency department" means, in a hospital licensed to~~
30 ~~provide emergency medical services, the location in which those~~
31 ~~services are provided.~~

32 (d) ~~"Encounter" means a face-to-face contact between a patient~~
33 ~~and the provider who has primary responsibility for assessing and~~
34 ~~treating the condition of the patient at a given contact and exercises~~
35 ~~independent judgment in the care of the patient.~~

36 (e) ~~"Freestanding ambulatory surgery clinic" means a surgical~~
37 ~~clinic that is licensed by the state under paragraph (1) of~~
38 ~~subdivision (b) of Section 1204.~~

~~(f) “Health facility” or “health facilities” means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.~~

~~(g) “Hospital” means all health facilities except skilled nursing, intermediate care, hospice facilities, and congregate living health facilities.~~

~~(h) “Office” means the Office of Statewide Health Planning and Development.~~

~~(i) “Risk-adjusted outcomes” means the clinical outcomes of patients grouped by diagnoses or procedures that have been adjusted for demographic and clinical factors.~~

~~SEC. 8. Section 128755 of the Health and Safety Code is amended to read:~~

~~128755. (a) (1) Hospitals shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the office within four months after the close of the hospital’s fiscal year except as provided in paragraph (2).~~

~~(2) If a licensee relinquishes the facility license or puts the facility license in suspense, the last day of active licensure shall be deemed a fiscal year end.~~

~~(3) The office shall make the reports filed pursuant to this subdivision available no later than three months after they were filed.~~

~~(b) (1) Skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, hospice facilities, and congregate living facilities, including nursing facilities certified by the state department to participate in the Medi-Cal program, shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the office within four months after the close of the facility’s fiscal year, except as provided in paragraph (2).~~

~~(2) (A) If a licensee relinquishes the facility license or puts the facility licensure in suspense, the last day of active licensure shall be deemed a fiscal year end.~~

~~(B) If a fiscal year end is created because the facility license is relinquished or put in suspense, the facility shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 within two months after the last day of active licensure.~~

~~(3) The office shall make the reports filed pursuant to paragraph (1) available not later than three months after they are filed.~~

1 ~~(4) (A) Effective for fiscal years ending on or after December~~
2 ~~31, 1991, the reports required by subdivisions (a), (b), (c), and (d)~~
3 ~~of Section 128735 shall be filed with the office by electronic media,~~
4 ~~as determined by the office.~~

5 ~~(B) Congregate living health facilities are exempt from the~~
6 ~~electronic media reporting requirements of subparagraph (A).~~

7 ~~(c) A hospital shall file the reports required by subdivision (g)~~
8 ~~of Section 128735 as follows:~~

9 ~~(1) For patient discharges on or after January 1, 1999, through~~
10 ~~December 31, 1999, the reports shall be filed semiannually by~~
11 ~~each hospital or its designee not later than six months after the end~~
12 ~~of each semiannual period, and shall be available from the office~~
13 ~~no later than six months after the date that the report was filed.~~

14 ~~(2) For patient discharges on or after January 1, 2000, through~~
15 ~~December 31, 2000, the reports shall be filed semiannually by~~
16 ~~each hospital or its designee not later than three months after the~~
17 ~~end of each semiannual period. The reports shall be filed by~~
18 ~~electronic tape, diskette, or similar medium as approved by the~~
19 ~~office. The office shall approve or reject each report within 15~~
20 ~~days of receiving it. If a report does not meet the standards~~
21 ~~established by the office, it shall not be approved as filed and shall~~
22 ~~be rejected. The report shall be considered not filed as of the date~~
23 ~~the facility is notified that the report is rejected. A report shall be~~
24 ~~available from the office no later than 15 days after the date that~~
25 ~~the report is approved.~~

26 ~~(3) For patient discharges on or after January 1, 2001, the reports~~
27 ~~shall be filed by each hospital or its designee for report periods~~
28 ~~and at times determined by the office. The reports shall be filed~~
29 ~~by online transmission in formats consistent with national standards~~
30 ~~for the exchange of electronic information. The office shall approve~~
31 ~~or reject each report within 15 days of receiving it. If a report does~~
32 ~~not meet the standards established by the office, it shall not be~~
33 ~~approved as filed and shall be rejected. The report shall be~~
34 ~~considered not filed as of the date the facility is notified that the~~
35 ~~report is rejected. A report shall be available from the office no~~
36 ~~later than 15 days after the date that the report is approved.~~

37 ~~(d) The reports required by subdivision (a) of Section 128736~~
38 ~~shall be filed by each hospital for report periods and at times~~
39 ~~determined by the office. The reports shall be filed by online~~
40 ~~transmission in formats consistent with national standards for the~~

1 exchange of electronic information. The office shall approve or
2 reject each report within 15 days of receiving it. If a report does
3 not meet the standards established by the office, it shall not be
4 approved as filed and shall be rejected. The report shall be
5 considered not filed as of the date the facility is notified that the
6 report is rejected. A report shall be available from the office no
7 later than 15 days after the report is approved.

8 (e) The reports required by subdivision (a) of Section 128737
9 shall be filed by each hospital or freestanding ambulatory surgery
10 clinic for report periods and at times determined by the office. The
11 reports shall be filed by online transmission in formats consistent
12 with national standards for the exchange of electronic information.
13 The office shall approve or reject each report within 15 days of
14 receiving it. If a report does not meet the standards established by
15 the office, it shall not be approved as filed and shall be rejected.
16 The report shall be considered not filed as of the date the facility
17 is notified that the report is rejected. A report shall be available
18 from the office no later than 15 days after the report is approved.

19 (f) Facilities shall not be required to maintain a full-time
20 electronic connection to the office for the purposes of online
21 transmission of reports as specified in subdivisions (c), (d), and
22 (e). The office may grant exemptions to the online transmission
23 of data requirements for limited periods to facilities. An exemption
24 may be granted only to a facility that submits a written request and
25 documents or demonstrates a specific need for an exemption.
26 Exemptions shall be granted for no more than one year at a time,
27 and for no more than a total of five consecutive years.

28 (g) The reports referred to in paragraph (2) of subdivision (a)
29 of Section 128730 shall be filed with the office on the dates
30 required by applicable law and shall be available from the office
31 no later than six months after the date that the report was filed.

32 (h) The office shall post on its Internet Web site and make
33 available to any person a copy of any report referred to in
34 subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision
35 (a) of Section 128736, subdivision (a) of Section 128737, Section
36 128740, and, in addition, shall make available in electronic formats
37 reports referred to in subdivision (a), (b), (c), (d), or (g) of Section
38 128735, subdivision (a) of Section 128736, subdivision (a) of
39 Section 128737, Section 128740, and subdivisions (a) and (c) of
40 Section 128745, unless the office determines that an individual

1 ~~patient's rights of confidentiality would be violated. The office~~
2 ~~shall make the reports available at cost.~~

3 ~~SEC. 9. The department is not required to draft the regulations~~
4 ~~required under this act if the California Hospice and Palliative~~
5 ~~Care Association drafts the necessary regulations, in consultation~~
6 ~~with the department and other state departments and stakeholders,~~
7 ~~and submits the draft regulations as a petition for regulation for~~
8 ~~the department's review and approval, pursuant to Sections 11340.6~~
9 ~~and 11340.7 of the Government Code.~~

10 *SEC. 2. Section 1250 of the Health and Safety Code is amended*
11 *to read:*

12 1250. As used in this chapter, "health facility" means any
13 facility, place, or building that is organized, maintained, and
14 operated for the diagnosis, care, prevention, and treatment of
15 human illness, physical or mental, including convalescence and
16 rehabilitation and including care during and after pregnancy, or
17 for any one or more of these purposes, for one or more persons,
18 to which the persons are admitted for a 24-hour stay or longer, and
19 includes the following types:

20 (a) "General acute care hospital" means a health facility having
21 a duly constituted governing body with overall administrative and
22 professional responsibility and an organized medical staff that
23 provides 24-hour inpatient care, including the following basic
24 services: medical, nursing, surgical, anesthesia, laboratory,
25 radiology, pharmacy, and dietary services. A general acute care
26 hospital may include more than one physical plant maintained and
27 operated on separate premises as provided in Section 1250.8. A
28 general acute care hospital that exclusively provides acute medical
29 rehabilitation center services, including at least physical therapy,
30 occupational therapy, and speech therapy, may provide for the
31 required surgical and anesthesia services through a contract with
32 another acute care hospital. In addition, a general acute care
33 hospital that, on July 1, 1983, provided required surgical and
34 anesthesia services through a contract or agreement with another
35 acute care hospital may continue to provide these surgical and
36 anesthesia services through a contract or agreement with an acute
37 care hospital. The general acute care hospital operated by the State
38 Department of Developmental Services at Agnews Developmental
39 Center may, until June 30, 2007, provide surgery and anesthesia
40 services through a contract or agreement with another acute care

1 hospital. Notwithstanding the requirements of this subdivision, a
2 general acute care hospital operated by the Department of
3 Corrections and Rehabilitation or the Department of Veterans
4 Affairs may provide surgery and anesthesia services during normal
5 weekday working hours, and not provide these services during
6 other hours of the weekday or on weekends or holidays, if the
7 general acute care hospital otherwise meets the requirements of
8 this section.

9 A “general acute care hospital” includes a “rural general acute
10 care hospital.” However, a “rural general acute care hospital” shall
11 not be required by the department to provide surgery and anesthesia
12 services. A “rural general acute care hospital” shall meet either of
13 the following conditions:

14 (1) The hospital meets criteria for designation within peer group
15 six or eight, as defined in the report entitled Hospital Peer Grouping
16 for Efficiency Comparison, dated December 20, 1982.

17 (2) The hospital meets the criteria for designation within peer
18 group five or seven, as defined in the report entitled Hospital Peer
19 Grouping for Efficiency Comparison, dated December 20, 1982,
20 and has no more than 76 acute care beds and is located in a census
21 dwelling place of 15,000 or less population according to the 1980
22 federal census.

23 (b) “Acute psychiatric hospital” means a health facility having
24 a duly constituted governing body with overall administrative and
25 professional responsibility and an organized medical staff that
26 provides 24-hour inpatient care for mentally disordered,
27 incompetent, or other patients referred to in Division 5
28 (commencing with Section 5000) or Division 6 (commencing with
29 Section 6000) of the Welfare and Institutions Code, including the
30 following basic services: medical, nursing, rehabilitative,
31 pharmacy, and dietary services.

32 (c) “Skilled nursing facility” means a health facility that provides
33 skilled nursing care and supportive care to patients whose primary
34 need is for availability of skilled nursing care on an extended basis.

35 (d) “Intermediate care facility” means a health facility that
36 provides inpatient care to ambulatory or nonambulatory patients
37 who have recurring need for skilled nursing supervision and need
38 supportive care, but who do not require availability of continuous
39 skilled nursing care.

1 (e) “Intermediate care facility/developmentally disabled
2 habilitative” means a facility with a capacity of 4 to 15 beds that
3 provides 24-hour personal care, habilitation, developmental, and
4 supportive health services to 15 or fewer persons with
5 developmental disabilities who have intermittent recurring needs
6 for nursing services, but have been certified by a physician and
7 surgeon as not requiring availability of continuous skilled nursing
8 care.

9 (f) “Special hospital” means a health facility having a duly
10 constituted governing body with overall administrative and
11 professional responsibility and an organized medical or dental staff
12 that provides inpatient or outpatient care in dentistry or maternity.

13 (g) “Intermediate care facility/developmentally disabled” means
14 a facility that provides 24-hour personal care, habilitation,
15 developmental, and supportive health services to persons with
16 developmental disabilities whose primary need is for
17 developmental services and who have a recurring but intermittent
18 need for skilled nursing services.

19 (h) “Intermediate care facility/developmentally
20 disabled-nursing” means a facility with a capacity of 4 to 15 beds
21 that provides 24-hour personal care, developmental services, and
22 nursing supervision for persons with developmental disabilities
23 who have intermittent recurring needs for skilled nursing care but
24 have been certified by a physician and surgeon as not requiring
25 continuous skilled nursing care. The facility shall serve medically
26 fragile persons with developmental disabilities or who demonstrate
27 significant developmental delay that may lead to a developmental
28 disability if not treated.

29 (i) (1) “Congregate living health facility” means a residential
30 home with a capacity, except as provided in paragraph (4), of no
31 more than 12 beds, that provides inpatient care, including the
32 following basic services: medical supervision, 24-hour skilled
33 nursing and supportive care, pharmacy, dietary, social, recreational,
34 and at least one type of service specified in paragraph (2). The
35 primary need of congregate living health facility residents shall
36 be for availability of skilled nursing care on a recurring,
37 intermittent, extended, or continuous basis. This care is generally
38 less intense than that provided in general acute care hospitals but
39 more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A “life-threatening illness” means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(D) Services for persons who have a diagnosis of a terminal illness, or are eligible for hospice services, palliative, or preliminary care, as permitted under state law.

(i) A facility that provides these services shall be known as a congregate living health facility-hospice.

(ii) A congregate living health facility-hospice shall be owned by and licensed to a hospice licensed and certified in California to provide routine and continuous care, as defined by the federal Centers for Medicare and Medicaid Services.

(iii) A congregate living health facility-hospice may also provide short-term respite care, inpatient care directly, or other optional services, pursuant to subparagraph (F) of paragraph (2) of subdivision (n) of Section 1267.13.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

1 (B) A congregate living health facility not operated by a city
2 and county servicing persons who are terminally ill, persons who
3 have been diagnosed with a life-threatening illness, or both, that
4 is located in a county with a population of 500,000 or more persons
5 may have not more than 25 beds for the purpose of serving persons
6 who are terminally ill.

7 (C) A congregate living health facility not operated by a city
8 and county serving persons who are catastrophically and severely
9 disabled, as defined in subparagraph (C) of paragraph (2) that is
10 located in a county of 500,000 or more persons may have not more
11 than 12 beds for the purpose of serving persons who are
12 catastrophically and severely disabled.

13 (D) *A congregate living health facility-hospice may have a*
14 *capacity of 36 beds.*

15 (5) A congregate living health facility shall have a
16 noninstitutional, ~~homelike~~ *home-like* environment.

17 (j) (1) "Correctional treatment center" means a health facility
18 operated by the Department of Corrections and Rehabilitation, the
19 Department of Corrections and Rehabilitation, Division of Juvenile
20 Facilities, or a county, city, or city and county law enforcement
21 agency that, as determined by the state department, provides
22 inpatient health services to that portion of the inmate population
23 who do not require a general acute care level of basic services.
24 This definition shall not apply to those areas of a law enforcement
25 facility that houses inmates or wards that may be receiving
26 outpatient services and are housed separately for reasons of
27 improved access to health care, security, and protection. The health
28 services provided by a correctional treatment center shall include,
29 but are not limited to, all of the following basic services: physician
30 and surgeon, psychiatrist, psychologist, nursing, pharmacy, and
31 dietary. A correctional treatment center may provide the following
32 services: laboratory, radiology, perinatal, and any other services
33 approved by the state department.

34 (2) Outpatient surgical care with anesthesia may be provided,
35 if the correctional treatment center meets the same requirements
36 as a surgical clinic licensed pursuant to Section 1204, with the
37 exception of the requirement that patients remain less than 24
38 hours.

39 (3) Correctional treatment centers shall maintain written service
40 agreements with general acute care hospitals to provide for those

1 inmate physical health needs that cannot be met by the correctional
2 treatment center.

3 (4) Physician and surgeon services shall be readily available in
4 a correctional treatment center on a 24-hour basis.

5 (5) It is not the intent of the Legislature to have a correctional
6 treatment center supplant the general acute care hospitals at the
7 California Medical Facility, the California Men's Colony, and the
8 California Institution for Men. This subdivision shall not be
9 construed to prohibit the Department of Corrections and
10 Rehabilitation from obtaining a correctional treatment center
11 license at these sites.

12 (k) "Nursing facility" means a health facility licensed pursuant
13 to this chapter that is certified to participate as a provider of care
14 either as a skilled nursing facility in the federal Medicare Program
15 under Title XVIII of the federal Social Security Act or as a nursing
16 facility in the federal Medicaid Program under Title XIX of the
17 federal Social Security Act, or as both.

18 (l) Regulations defining a correctional treatment center described
19 in subdivision (j) that is operated by a county, city, or city and
20 county, the Department of Corrections and Rehabilitation, or the
21 Department of Corrections and Rehabilitation, Division of Juvenile
22 Facilities, shall not become effective prior to, or if effective, shall
23 be inoperative until January 1, 1996, and until that time these
24 correctional facilities are exempt from any licensing requirements.

25 (m) "Intermediate care facility/developmentally
26 disabled-continuous nursing (ICF/DD-CN)" means a homelike
27 facility with a capacity of four to eight, inclusive, beds that
28 provides 24-hour personal care, developmental services, and
29 nursing supervision for persons with developmental disabilities
30 who have continuous needs for skilled nursing care and have been
31 certified by a physician and surgeon as warranting continuous
32 skilled nursing care. The facility shall serve medically fragile
33 persons who have developmental disabilities or demonstrate
34 significant developmental delay that may lead to a developmental
35 disability if not treated. ICF/DD-CN facilities shall be subject to
36 licensure under this chapter upon adoption of licensing regulations
37 in accordance with Section 1275.3. A facility providing continuous
38 skilled nursing services to persons with developmental disabilities
39 pursuant to Section 14132.20 or 14495.10 of the Welfare and
40 Institutions Code shall apply for licensure under this subdivision

1 within 90 days after the regulations become effective, and may
2 continue to operate pursuant to those sections until its licensure
3 application is either approved or denied.

4 *SEC. 3. Section 1265.7 of the Health and Safety Code is*
5 *amended to read:*

6 1265.7. (a) (1) The ~~state~~ department shall adopt regulations
7 for the licensure of congregate living health facilities. The
8 regulations shall include minimum standards of adequacy, safety,
9 and sanitation of the physical plant and equipment, minimum
10 standards for staffing with duly qualified personnel, and training
11 of the staff, and minimum standards for providing the services
12 offered.

13 (2) Regulations for facilities approved to provide services for
14 persons who may be ventilator dependent shall ensure that residents
15 of these facilities are assured appropriate supportive health services
16 in the most normal, least restrictive physical and rehabilitative
17 environment appropriate to individual resident needs.

18 (3) Regulations for facilities approved to provide services for
19 persons who are terminally ill, who have a diagnosis of a
20 life-threatening illness, who are catastrophically and severely
21 disabled, *persons who are provided care in a congregate living*
22 *health facility-hospice* or any combination of those persons, shall
23 ensure that residents of these facilities receive supportive health
24 services, based on individual resident acuity levels in the most
25 normal, least restrictive physical environment for individual
26 resident needs.

27 (b) Pending adoption of the regulations pursuant to paragraphs
28 (2) and (3) of subdivision (a), an entity shall be licensed as a
29 congregate living health facility serving persons who are terminally
30 ill, persons who are catastrophically and severely disabled, persons
31 who are mentally alert but physically disabled, *persons who are*
32 *provided care in a congregate living health facility-hospice*, or
33 any combination of these persons, by the ~~state~~ department
34 beginning July 1, 1988, if it meets the requirements identified in
35 subdivision (i) of Section 1250 and in Section 1267.13.

36 *SEC. 4. Section 1267.13 of the Health and Safety Code is*
37 *amended to read:*

38 1267.13. Pursuant to paragraph (3) of subdivision (a) and
39 subdivision (b) of Section 1265.7, this section shall be effective
40 until the adoption of permanent regulations. Notwithstanding, the

1 state department has authority to make reasonable accommodation
2 for exceptions to the standards in this section, providing the health,
3 safety, and quality of patient care is not compromised. No
4 exceptions shall be made for building standards. Prior written
5 approval communicating the terms and conditions under which
6 the exception is granted shall be required. Applicants shall request
7 the exception in writing accompanied by detailed, supporting
8 documentation.

9 Congregate living health facilities serving persons who are
10 terminally ill, persons who are catastrophically and severely
11 disabled, persons who are mentally alert but physically disabled,
12 *persons who are provided care in a congregate living health*
13 *facility-hospice*, or any combination of these persons, shall conform
14 to the following:

15 (a) Facilities shall obtain and maintain a valid fire clearance
16 from the appropriate authority having jurisdiction over the facility,
17 based on compliance with state regulations concerning fire and
18 life safety, as adopted by the State Fire Marshal.

19 (b) The State Fire Marshal, with the advice of the State Board
20 of Fire Services, shall adopt regulations on or before January 1,
21 1991, following a public hearing, establishing minimum
22 requirements for the protection of life and property for congregate
23 living health facilities serving terminally ill persons,
24 catastrophically and severely disabled persons, persons who are
25 mentally alert but physically disabled, or any combination of these
26 persons. These minimum requirements shall recognize the
27 residential and noninstitutional setting of congregate living health
28 facilities serving terminally ill persons, catastrophically and
29 severely disabled persons, persons who are mentally alert but
30 physically disabled, or any combination of these persons.

31 (c) Facilities shall be in a homelike residential setting. Living
32 accommodations and grounds shall be related to the facility's
33 function and clientele. Facilities shall provide sufficient space for
34 comfortable living accommodations and privacy for residents,
35 staff, and others who may reside in the facility.

36 (d) Common rooms, including, but not limited to, living rooms,
37 dining rooms, and dens or other recreation or activity rooms, shall
38 be provided and shall have sufficient space, separation, or both to
39 promote and facilitate the program of activities and to prevent
40 these activities from interfering with other functions.

1 Accommodations shall ensure adequate space for residents to have
2 visitors and for privacy during visits, if desired.

3 (e) Resident bedrooms shall have adequate space to allow easy
4 passage throughout; permit comfortable usage of furnishings;
5 promote ease of nursing care; and accommodate use of assistive
6 devices, including, but not limited to, wheelchairs, walkers, and
7 patient lifts, when needed.

8 (f) No room commonly used for other purposes, including, but
9 not limited to, a hall, stairway, attic, garage, storage area, shed, or
10 similar detached building, shall be used as a sleeping room for any
11 resident.

12 (g) No resident bedroom shall be used as a passageway to
13 another room, bath, or toilet.

14 (h) Not more than two residents shall share a bedroom.

15 (i) Equipment and supplies necessary for personal care and
16 maintenance of adequate hygiene shall be readily available to all
17 residents.

18 (j) Toilets and bathrooms shall be conveniently located. At least
19 one toilet and washbasin shall be provided per six residents. At
20 least one bathtub or shower shall be provided per 10 residents.
21 Individual privacy shall be provided in all toilet, bath and shower
22 areas. Separate toilet, washbasin, and bathtub or shower
23 accommodations shall be provided for staff.

24 (k) Sufficient room shall be available throughout the facility to
25 accommodate and serve all persons in comfort and safety. The
26 premises shall be maintained in good repair and shall provide a
27 safe, clean, and healthful environment.

28 (l) Facilities shall have equipment and supplies appropriate to
29 meet the routine and specialized needs of all residents.

30 (m) All persons shall be protected from hazards throughout the
31 premises:

32 (1) Stairways, inclines, ramps, open porches, and other areas
33 of potential hazard to residents with poor balance or eyesight shall
34 be made inaccessible unless well lighted and equipped with sturdy
35 hand railings.

36 (2) Night lights shall be maintained in hallways and passages
37 to nonprivate bathrooms.

38 (3) All indoor and outdoor passageways and stairways shall be
39 kept free of obstructions.

1 (4) Fireplaces, woodstoves, and open-faced heaters shall be
2 adequately screened.

3 (5) Facilities shall assure the inaccessibility of fishponds, wading
4 pools, hot tubs, swimming pools, or similar bodies of water or
5 other areas of potential hazard when not in active use.

6 (n) (1) Facilities serving persons who are terminally ill,
7 catastrophically and severely disabled, mentally alert but physically
8 disabled, or any combination of these persons, shall, in addition
9 to the requirements of this chapter and until specific regulations
10 governing their operation are filed, conform to regulations
11 contained in Chapter 3 of Division 5 of Title 22 of the California
12 Code of Regulations of April 1, 1988, with the exception of the
13 following sections or portions of sections: 72007, 72053, 72073,
14 subdivision (a) of Section 72077, 72097, 72099, 72103, 72203,
15 subdivision (a) of Section 72205, 72301, 72305, subdivision (a)
16 of Section 72325, 72327, 72329, 72331, 72337, subdivisions (b),
17 (g), and (h) of Section 72351, 72353, subdivision (a) of Section
18 72367, 72373, subdivision (b) of Section 72375, 72401, 72403,
19 72405, 72407, 72409, 72411, 72413, 72415, 72417, 72419, 72421,
20 72423, 72425, 72427, 72429, 72431, 72433, 72435, 72437, 72439,
21 72441, 72443, 72445, 72447, 72449, 72451, 72453, 72455, 72457,
22 72459, 72461, 72463, 72465, 72467, 72469, 72471, 72473, 72475,
23 72503, paragraph (2) of subdivision (a) of Section 72513, 72520,
24 72535, 72555, 72557, subdivisions (a) and (b) of Section 72601,
25 subdivision (d) of Section 72607, subdivisions (a) and (d) of
26 Section 72609, 72611, 72615, 72617, 72629, 72631, 72633, 72635,
27 subdivisions (b), (c), and (d) of Section 72639, 72641, and 72665.

28 (2) (A) *A congregate living health facility-hospice shall comply*
29 *with the requirements of this section, except for Section 1439.2,*
30 *and except for Section 72315(h), (i), (j), and (k), Section 72323(d),*
31 *Section 72335(a)(1), Section 72341(a), Sections 72379 to 72389,*
32 *inclusive, and Section 72525 of Chapter 3 of Division 5 of Title*
33 *22 of the California Code of Regulations.*

34 (B) *An activity plan shall be developed and implemented for,*
35 *and reflect the personal preferences of, each resident. The activity*
36 *plan shall be integrated with the individual interdisciplinary patient*
37 *care plan.*

38 (C) *Chemicals may be used as a substitute for the methods*
39 *specified in Section 72323(c) of Division 5 of Title 22 of the*
40 *California Code of Regulations, if the product used is specifically*

1 *designed to be used as a substitute and is used in accordance with*
2 *the manufacturer's requirements.*

3 *(D) The hospice interdisciplinary team shall perform the*
4 *functions of the required committees as specified by Section 72525*
5 *of Division 5 of Title 11 of the California Code of Regulations.*

6 *(E) The department shall not count temporary sleeping*
7 *accommodations provided to permit family and friends to stay with*
8 *the residents of a congregate living health facility-hospice in the*
9 *number of licensed beds for purposes of compliance with Section*
10 *1250, or Section 72607 of Division 5 of Title 22 of the California*
11 *Code of Regulations.*

12 *(F) A facility is not required to provide optional services.*

13 *(i) "Optional service" means a service of a congregate living*
14 *health facility-hospice that is organized, staffed, and equipped to*
15 *provide specific types of patient care.*

16 *(ii) A congregate living health facility-hospice may provide,*
17 *pursuant to federal law, including Section 418 of Title 42 of the*
18 *Code of Federal Regulations, the following types of optional*
19 *services:*

20 *(I) Direct inpatient care, including fire/life safety requirements.*

21 *(II) Optional services approved by the department.*

22 *(iii) A facility desiring approval for an optional service shall*
23 *file an application on a form furnished by the department for this*
24 *purpose.*

25 *(iv) The department shall approve each optional service within*
26 *the facility and list on the facility's license each optional service*
27 *for which the department has granted approval.*

28 *(o) (1) Facilities serving persons who are terminally ill,*
29 *catastrophically and severely disabled, mentally alert but physically*
30 *disabled, persons who are provided care in a congregate living*
31 *health facility-hospice, or any combination of these persons, shall*
32 *have an administrator who is responsible for the day-to-day*
33 *operation of the facility. The administrator may be either a licensed*
34 *registered nurse, a nursing home administrator, or the licensee.*
35 *The administrator shall be present at the facility a sufficient number*
36 *of hours to ensure the smooth operation of the facility. If the*
37 *administrator is also the registered nurse fulfilling the duties*
38 *specified in paragraph (2), the administrator shall not be responsible*
39 *for more than one facility. In all other circumstances, the*
40 *administrator shall not be responsible for more than three facilities*

1 with an aggregate total of 75 beds and these facilities shall be
2 within one hour's surface travel time of each other.

3 (2) (A) For each congregate living health facility of more than
4 six beds serving persons who are terminally ill, catastrophically
5 and severely disabled, mentally alert but physically disabled, or
6 any combination of these persons, there shall be, at a minimum, a
7 registered nurse or licensed vocational nurse awake and on duty
8 at all times. A registered nurse shall be awake and on duty eight
9 hours a day, five days a week.

10 (B) For each congregate living health facility of six or fewer
11 beds serving persons who are terminally ill, catastrophically and
12 severely disabled, mentally alert but physically disabled, or any
13 combination of these persons, a registered nurse shall visit each
14 patient at least twice a week for approximately two hours, or more
15 as patient care requires.

16 (C) For all congregate living health facilities serving persons
17 who are terminally ill, catastrophically and severely disabled,
18 mentally alert but physically disabled, or any combination of these
19 persons, a registered nurse shall be available for consultation and
20 able to come into the facility within 30 minutes, if necessary, when
21 no registered nurse is on duty. In addition, certified nurse assistants,
22 or persons with similar training and experience as determined by
23 the department, shall be awake and on duty in the facility in at
24 least the following ratios: facilities with six beds or less, one per
25 shift; facilities with 7 to 12 beds, two per shift; facilities with 13
26 to 25 beds, three per day and evening shifts and two per nocturnal
27 shift. No nursing services personnel shall be assigned housekeeping
28 or dietary duties.

29 (D) *A congregate living health facility-hospice shall provide*
30 *24-hour nursing services that meet the nursing needs of all patients*
31 *and are furnished in accordance with each patient's plan of care.*

32 (i) *Each patient shall receive all nursing services as prescribed*
33 *in the patient's plan of care and shall be kept comfortable, clean,*
34 *well-groomed, and protected from accident, injury, and infection.*

35 (ii) *Each shift shall have at least one registered nurse or licensed*
36 *vocational nurse awake and on duty.*

37 (iii) *Each shift shall include a registered nurse who provides*
38 *direct patient care when at least one patient is receiving general*
39 *inpatient care.*

1 (iv) *No registered nurse, licensed vocational nurse, certified*
2 *nurse assistant, or home health aide may care for more than six*
3 *residents.*

4 (v) *The facility shall document the level of care provided to each*
5 *resident and the staffing levels at each shift.*

6 (3) Notwithstanding the provisions of this subdivision, the
7 facility shall provide appropriately qualified staff in sufficient
8 numbers to meet patient care needs.

9 (4) Nursing service personnel shall be employed and on duty
10 in at least the number and with the qualifications determined by
11 the department to provide the necessary nursing services for
12 patients admitted for care. The department may require a facility
13 to provide additional professional, administrative, or supportive
14 personnel whenever the state department determines through a
15 written evaluation, that additional personnel are needed to provide
16 for the health and safety of patients.

17 (5) All staff members shall receive orientation regarding care
18 appropriate for the patients' diagnoses and individual resident
19 needs. Orientation shall include a minimum of 16 hours during
20 the first 40 hours of employment.

21 (6) Nothing in this chapter shall prevent the use of volunteers;
22 however, volunteers shall not be used as substitutes for the
23 personnel required in the above sections. Volunteers providing
24 patient care services shall:

25 (A) Be provided clearly defined roles and written job
26 descriptions.

27 (B) Receive orientation and training equivalent to that provided
28 paid staff.

29 (C) Possess education and experience equal to that required of
30 paid staff performing similar functions.

31 (D) Conform to the facility's policies and procedures.

32 (E) Receive periodic performance evaluations.

33 (p) *In addition to the requirements of this section, a congregate*
34 *living health facility-hospice shall comply with the following:*

35 (1) *Meet all standards for providing routine or continuous care*
36 *to residents of the facility, in full compliance with Section 418 of*
37 *Title 42 of the Code of Federal Regulations, as required by the*
38 *federal Centers for Medicare and Medicaid Services.*

39 (2) *Provide each patient with all of the following:*

1 (A) Full information regarding the patient's health status and
2 options for end-of-life care.

3 (B) Care that reflects a patient's preferences regarding
4 end-of-life care, including the right to refuse any treatment or
5 procedure.

6 (C) Treatment with consideration, respect, and full recognition
7 of the patient's dignity and individuality, including privacy in
8 treatment and care of personal needs.

9 (D) Entitlement to visitors of the patient's choosing, at any time
10 the patient chooses, and with ensured privacy for those visits.

11 (3) Draft and implement disaster preparedness plans for both
12 internal and external disasters that protect the facility's patients,
13 employees, and visitors, and reflect coordination with local
14 agencies that are responsible for disaster preparedness and
15 emergency response.

16 (4) Continue to provide services to family and friends after the
17 patient's stay in the facility in accordance with the patient's plan
18 of care. Continuing services may be provided by the hospice
19 program that operates the facility.

20 (p)

21 (q) The interim standards prescribed by this section shall become
22 inoperative upon the filing of the regulations with the Secretary
23 of State.

24 SEC. 5. Section 1267.15 of the Health and Safety Code is
25 amended to read:

26 1267.15. ~~Congregate~~ (a) A ~~congregate~~ living health facilities
27 facility shall be freestanding, but this does not preclude their
28 location the facility from being located on the premises of a
29 hospital. ~~Congregate living health facilities shall be separately~~
30 ~~licensed.~~

31 (b) The provisions of subdivision (a) shall not apply to a
32 congregate living health facility-hospice.

33 (1) A congregate living health facility-hospice may be located
34 adjacent to, physically connected to, within the physical plant of,
35 or on the building grounds of, another health facility.

36 (2) A congregate living health facility-hospice may lease space
37 from another hospital for purposes of obtaining a separate license,
38 and the lease shall be considered a change of ownership for that
39 space. Units or wings of another health facility leased and
40 separately licensed to a congregate living health facility-hospice

1 shall be deemed to be continuously licensed for purposes of meeting
2 California building code requirements. Units or wings of another
3 health facility leased and separately licensed to a congregate living
4 health facility-hospice shall not be considered a change in use,
5 unless renovations made by the congregate living health
6 facility-hospice would result in a failure to comply with health
7 facility building code standards, as required prior to the change
8 of ownership. Upon termination of the lease agreement, or
9 revocation of the congregate living health facility-hospice license,
10 the space previously occupied by the congregate living health
11 facility-hospice shall be placed back on the license of the health
12 facility that leased the space.

13 (3) A congregate living health facility-hospice shall demonstrate
14 its ability to meet licensing and Medicare certification
15 requirements, and shall be fully responsible for meeting these
16 requirements, regardless of whether the requirements are met
17 through direct provision by the facility, or through a contract with
18 another health facility or entity. Reliance on contractors to meet
19 the licensing requirements, including contracting with another
20 health facility, does not exempt from or lessen the congregate
21 living health facility-hospice's legal responsibilities.

22 (4) The department shall hold the congregate living health
23 facility-hospice accountable for a violation of licensing or
24 certification requirements under Section 418 of Title 42 of the
25 Code of Federal Regulations, regardless of whether the violation
26 occurred as a result of services provided under contract with
27 another health facility or entity, or the services were provided
28 directly by the congregate living health facility-hospice.

29 (5) Nothing shall preclude the department from holding
30 accountable the health facility providing services under contract
31 to the congregate living health facility-hospice, if the department
32 determines that the facts also present a separate violation for the
33 health facility providing services under contract.

34 (c) A congregate living health facility shall be separately
35 licensed.

36 ~~SEC. 10.~~

37 SEC. 6. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O